REMARKS

This Application has been reviewed carefully in light of the Office Action mailed October 9, 2003 ("the *Office Action*"). Claims 1-20 were pending in the Application and stand rejected. Applicant amends Claims 1, 4, and 6 and cancels Claims 2 and 5. Claims 1 and 4 now include the limitations previously found in Claims 2 and 5, and Claim 6 now depends from Claim 4. Applicant amends Claim 11 to correct a typographical error. Applicant adds new Claims 21 and 22, which are fully supported by the specification.

Supplement to Information Disclosure Statement Filed 11/6/2000

In the Information Disclosure Statement filed on November 6, 2000 ("IDS"), Applicant made a bona fide attempt to comply with 37 C.F.R. §1.98, but inadvertently omitted the names of the inventors of the thirteen co-pending applications being disclosed. Applicant supplements the IDS by providing the Examiner with the attached "Supplement to Information Disclosure Statement Filed 11/6/2000," which provides the names of the inventors of the co-pending applications. The IDS now fully complies with the requirements of 37 C.F.R. §1.98. Applicant therefore respectfully requests the Examiner to consider the IDS pursuant to 37 C.F.R. §1.97(f).

Claim Rejections – 35 U.S.C. §112, ¶2

The Examiner maintains a rejection of Claims 1-6, 8-13, and 15-20 under 35 U.S.C. §112, ¶2, but withdraws the §112, ¶2 rejection with regard to Claims 7 and 14.

Applicant notes with appreciation the Examiner's withdrawal of the §112, ¶2 rejection of Claims 7 and 14. The Examiner only rejected Claims 8-13 and 15-20 under §112, ¶2 for being dependent on Claims 7 and 14 respectively. Applicant therefore respectfully requests the Examiner also to withdraw the §112, ¶2 rejection of Claims 8-13 and 15-20.

Applicant respectfully submits that the §112, ¶2 rejection of Claims 1 and 4 is obviated due to Applicant's amendments of these Claims. Applicant cancels Claims 2 and 5, and Claims 3 and 6 depend from Claims 1 and 4 respectively. Therefore, Applicant respectfully requests the Examiner to withdraw the §112, ¶2 rejection of Claims 1, 3, 4, and 6.

Claim Rejections – 35 U.S.C. §102

The Examiner rejects Claims 1-7 and 14 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,083,277, which issued to Fowlow et al. ("*Fowlow*"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131.

Claims 1, 3, 4, and 6

Applicant's Claim 1, as amended, recites:

> A method, comprising the steps of:
> providing a set of predetermined function definitions;
> preparing a project definition, said project definition including:
> a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition;
> a further portion which includes a source portion identifying a data source and defining an output port through which data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which data can be supplied to the data destination; and
> binding information which includes binding portions that each associate a respective said input port with one of said output ports;
> wherein one of said function definitions identifies a separate application program, wherein one of said function portions which corresponds to said one function definition identifies a command for said application program, wherein execution of said one function portion causes execution of said command by said application program in a manner which affects data present in said one function portion, and wherein said data in said one function portion is image data; and
> selecting as said application program an image processing program.

Applicant respectfully submits that *Fowlow* fails to disclose every element of this Claim.

Among other aspects of Claim 1, *Fowlow* fails to disclose "wherein said data in said one function portion is image data; and selecting as said application program an image processing program." As teaching these elements, the Examiner cites Figure 3 of *Fowlow*

and states that "[a]n object . . . inherently represents a real world entity, therefore, an object that representing [sic] an image would inherently be an image-processing program." *Office Action* at page 7. However, *Fowlow* nowhere discloses, in Figure 3 or elsewhere, that an object represents an image. Moreover, an object, as the term is used in *Fowlow*, relates to object-oriented programming and refers to a particular portion of computer code. Furthermore, *Fowlow* nowhere discloses, in Figure 3 or elsewhere, an image-processing program. Thus, *Fowlow* simply fails to show "wherein said data in said one function portion is image data; and selecting as said application program an image processing program."

The Examiner apparently assumes that the objects disclosed in *Fowlow* "inherently" represent image data and that these objects "inherently" are image-processing programs. *Office Action* at page 7. Applicant disagrees. Moreover, while in limited circumstances an examiner may take official notice of facts not in the record or rely on "common knowledge" in making a rejection, "such rejections should be judiciously applied." M.P.E.P. §2144.03. It is not appropriate for an examiner to take official notice of facts without citing a prior art reference "where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." *Id.* (citing *In re Ahlert*, 165 U.S.P.Q. 418, 420-21 (C.C.P.A. 1970)). To the extent that the Examiner maintains this rejection based on "Official Notice," "well known prior art," "common knowledge," or other information within the Examiner's personal knowledge, Applicant respectfully requests that the Examiner cite a reference in support of this position or provide an affidavit in accordance with M.P.E.P. §2144.03 and 37 C.F.R. §1.104(d)(2).

These reasons apply similarly with respect to Applicant's Claim 4. Claims 3 and 6 depend from Claims 1 and 4 respectively. Therefore, for all of the reasons discussed above, Applicant respectfully requests reconsideration and withdrawal of the §102 rejections of Claims 1, 3, 4 and 6.

Claims 7 and 14

Applicant's Claim 7 recites:

> A method, comprising the steps of:
> providing a set of predetermined function definitions which are different;
> modifying said set to include at least one custom function definition which is functionally different from each of said predetermined function definitions; and

> preparing a project definition, said project definition including:
>
> a plurality of function portions which each correspond to one of said function definitions in said modified set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition from said modified set;
>
> a further portion which includes a source portion identifying a data source and defining an output port through which data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which data can be supplied to the data destination; and
>
> binding information which includes binding portions that each associate a respective said input port with one of said output ports.

Applicant respectfully submits that *Fowlow* fails to disclose every element of this Claim.

Among other aspects of Claim 7, *Fowlow* fails to disclose "modifying said set to include at least one custom function definition which is functionally different from each of said predetermined function definitions." As teaching this element, the Examiner cites *Fowlow*'s discussion of identifying and retrieving existing and previously defined objects to reuse these objects when developing new software applications. *Fowlow*, Col. 6, lines 28-51. However, this merely shows selecting existing code and reusing it in a new application. Reusing existing code simply does not show "modifying said set to include at least one custom function definition which is functionally different from each of said predetermined function definitions."

These reasons apply similarly with respect to Applicant's Claim 14. Therefore, for substantially the same reasons, Applicant respectfully requests reconsideration and withdrawal of the §102 rejections of Claims 7 and 14.

Claim Rejections – 35 U.S.C. §103

Claims 8-11 and 15-18

The Examiner rejects Claims 8-11 and presumably Claims 15-18 under 35 U.S.C. §103(a) as being unpatentable over *Fowlow* in view of U.S. Patent 6,002,876, which issued to Davis et al. ("*Davis*"). These Claims depend from Claims 7 and 14 respectively, which are shown above to be patentable over *Fowlow*. The introduction of *Davis* fails to provide the elements of Applicant's Claims 7 and 14 not shown by *Fowlow*. Thus, for at least these

reasons, Applicant respectfully requests reconsideration and withdrawal of the §103 rejection of Claims 8-11 and 15-18.

Claims 12, 13, 19, and 20

The Examiner rejects Claims 12 and 13 and presumably Claims 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over *Fowlow* in view of *Davis* and further in view of U.S. Patent 6,317,648, which issued to Sleep et al. ("*Sleep*"). Again, these Claims depend from Claims 7 and 14 respectively, which are shown above to be patentable over *Fowlow*. The introduction of *Davis* and *Sleep* fail to provide the elements of Applicant's Claims 7 and 14 not shown by *Fowlow*. Thus, for at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the §103 rejection of Claims 12, 13, 19, and 20.

Provisional Nonstatutory Double-Patenting Rejection

The Examiner maintains a rejection of Claims 1 and 4 under the judicially-created doctrine of obviousness-type double patenting, based on either Claim 1 or Claim 11 of co-pending U.S. Patent Application Serial No. 09/658,239, when taken in view of U.S. Patent No. 6,446,135, which issued to Koppolu et al. The Examiner also maintains a rejection of Claims 7 and 14 under the judicially-created doctrine of obviousness-type double patenting, based on either Claim 1 or Claim 11 of co-pending U.S. Patent Application Serial No. 09/658,239, when taken in view of U.S. Patent No. 6,002,876, which issued to Davis et al.

Applicant respectfully points out that the quotation attributed to Applicant with regard to the provisional nonstatutory double-patenting rejection was not submitted by Applicant in this Application. Those arguments are not presented in this case and should not be considered as part of the present file. However, Applicant respectfully requests the Examiner to consider the arguments made by Applicant in the response filed July 15, 2003. Furthermore, Applicant respectfully submits that, if necessary and appropriate, Applicant stands ready to file a terminal disclaimer to overcome any non-provisional double-patenting rejection.

Previous §103 Rejection

Applicant respectfully points out that the quotation attributed to Applicant with regard to the previous §103 rejection was not submitted by Applicant in this Application. Those

arguments are not presented in this case and should not be considered as part of the present file.

CONCLUSION

Applicant has made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of the Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

Although no fees are believed to be currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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